

Atty. Docket No. 696.002

REMARKS

In the Office Action dated April 25, 2005, pending Claims 1-20 were rejected and the rejection made final. In response Applicants have filed herewith an Amendment After Final and have amended independent Claims 1 and 20 and added new dependent Claims 21 and 22. Applicants intend no change in the scope of the claims by the changes made by this amendment. It should be noted these amendments are not in acquiescence of the Office's position on allowability of the claims, but merely to expedite prosecution.

Applicants and the undersigned are most grateful for the time and effort accorded the instant application by the Examiner. The Office is respectfully requested to reconsider the rejection present in the outstanding Office Action in light of the following remarks.

The title was objected to in a prior Office Action. In the Amendment dated January 31, 2005, the title of the Invention was amended to address the objection. However the outstanding Office Action maintains the objection on page 4 and no mention of traversing the objection is made. Further clarification is respectfully requested.

There are headings in the outstanding Office Action title "Claim Objections" and "Claim Rejections - 35 USC 112" on page 5. However, no objections or rejections are made under these headings. Further, no mention is made on the status of the objections and rejections set forth in prior Office Actions. Further clarification is respectfully requested.

Atty. Docket No. 696.002

Claims 1-20 were pending in the instant application at the time of the outstanding Office Action. Of these claims, Claims 1 and 20 are independent claims; the remaining claims are dependent claims. Claims 1 and 20 have rewritten, and claims 21 and 22 have been added. Applicants intend no change in the scope of the claims by the changes made by these amendments. It should also be noted these amendments are not in acquiescence of the Office's position on allowability of the claims, but merely to expedite prosecution.

Claims 1-20 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 5,918,014 to Robinson. Claims 1-20 also stand rejected under 35 U.S.C. § 102(e) as being anticipated by International Patent Application No. WO 97/41673 to Gerace. Reconsideration and withdrawal of these rejections is respectfully requested.

The present invention broadly contemplates enabling Internet businesses to conduct real-time, online experiments in a continuous or discrete fashion on a sample of transactions and determine marketplace sensitivities. (Page 7, lines 3-5) Real-time analysis of the results of the experiments reveal optimal values of key market decision variables, such as price, content of banner ads, promotion levels, quantity discount schemes, etc. (Page 6, lines 5-7) The dynamic experimentation used by the inventive system reveals the relative stability (or instability) of the networked market within which the business operates. The translation of an optimal value for a key variable (for example, price) to the entire market can be done on a real-time basis. (Page 6, lines 18-21)

As best understood, Robinson appears to be directed to displaying advertising to users of the World Wide Web based upon what "community" they are in. See Col. 2,

Atty. Docket No. 696.002

lines 23-26 ("If the members of a particular consumer's community tend to click on a particular Web ad, then there is a certain likelihood that the subject consumer will also tend to click on that ad.")

As best understood, Gerace appears to be directed to targeting of an appropriate audience based on the psychographic or behavioral profiles of end users. Using the profile, advertisements are displayed to appropriately selected users. (Abstract)

The instantly claimed invention requires specifically "(a) receiving configuration data from the Internet merchant; (b) randomly sampling visitors to the Internet website according to the configuration data **continuously or at discrete intervals**; (c) determining an optimal advertisement using the data acquired in step (b); and (d) thereafter using the optimal advertisement determined in step (c)." (emphasis added) Similar language can be found in all of the independent claims of the instant application. Applicants note the Office's discussion of the applied references highlights that not all of the elements of the present invention are found in the applied art.

Neither Robinson nor Gerace teach or suggest randomly sampling visitors to the website continuously. However, this continuous sampling, and the real-time analyses of these continuous samples that are used to determined the optimal advertisements for website visitors, is one of the novel aspects of the invention which sets it apart from the prior art.

Accordingly, Applicants respectfully submit that the applied art does not anticipate the present invention because, at the very least, "[a]nticipation requires the

Atty. Docket No. 696.002

disclosure in a single prior art reference of each element of the claim under construction."

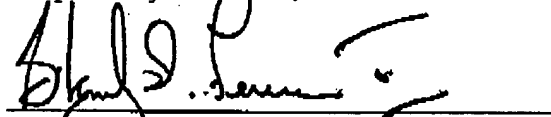
W.L. Fore & Associates, Inc. v. Garlock, 721 F.2d 1540, 1554 (Fed. Cir. 1983); see also

In re Marshall, 198 U.S.P.Q. 344, 346 (C.C.P.A. 1978).

By virtue of dependence from what is believed to be allowable independent Claims 1 and 20, it is respectfully submitted that Claims 2-19, and newly added 21-22 are also presently allowable.

In summary, it is respectfully submitted that the instant application, including Claims 1-22, is presently in condition for allowance. Notice to the effect is hereby earnestly solicited. If there are any further issues in this application, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,



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